whether the information will have practical utility;
—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification on Agency Letterhead Authorizing Purchase of Firearm for Official Duties of Law Enforcement Officer.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local or Tribal Government. *Other:* None. The letter is used by a law enforcement officer to purchase handguns to be used in his/her official duties from a licensed firearm dealer anywhere in the country. The letter shall state that the officer will use the firearm in official duties and that a records check reveals that the purchasing officer has no convictions for misdemeanor crimes or domestic violence.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50,000 respondents will take 5 seconds to file the letter.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 69 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: July 7, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E8–15876 Filed 7–11–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Randall Relyea, D.O.; Denial of Application

On July 25, 2007, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Randall Relyea, D.O. (Respondent), of Price, Utah. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BR8899809, as a practitioner, on the ground that Respondent's ''continued registration is inconsistent with the public interest.'' Show Cause Order at 1.

The Show Cause Order specifically alleged that in February 2007, Respondent had engaged in a scheme to have one of his patients obtain narcotic controlled substances for his personal use. Show Cause Order at 1. The Show Cause Order also alleged that during the previous year, Respondent had engaged in ''a similar scheme * * * to acquire narcotics,'' and that Respondent had been charged with multiple felony narcotics offenses under Utah law with respect to both schemes. *Id.*

The Show Cause Order further alleged that in 1999, Respondent had been ''charged with felonies [under Missouri law] involving [his] obtaining hydrocodone under a fictitious name.'' *Id.* The Show Cause Order alleged that while these charges were later reduced to misdemeanors and that Respondent had surrendered his DEA registration, he had ''continued to abuse narcotics at levels indicating recurrent or habitual use.'' *Id.*

The Show Cause Order, which notified Respondent of his right to a hearing or to submit a statement in lieu of a hearing, was served on him by certified mail to his registered location as evidenced by the signed return receipt card.[1] Since that time, neither Respondent nor his counsel has requested a hearing on the allegations of the Show Cause Order. Because more than thirty days have passed since service of the Show Cause Order and neither Respondent nor his counsel has requested a hearing, I conclude that Respondent has waived his right to a hearing. *See* 21 CFR 1301.43(d). I therefore issue this Decision and Final Order without a hearing based on relevant material contained in the investigative file and make the following findings.

Findings

Respondent was the holder of DEA Certificate of Registration, #BR8899809, which authorized him to handle controlled substances in schedules II through V as a practitioner. Respondent's registration expired on April 30, 2007, and Respondent did not file a renewal application until May 30, 2007. I thus find that Respondent did not file a timely renewal application as required to maintain his registration and thus does not have a current registration with the Agency. *See* 5 U.S.C. 558(c). Respondent's renewal application is, however, pending before the Agency.

Respondent previously held another DEA registration. In December 1999, however, Respondent was arrested in Brentwood, Missouri, and charged with fraudulently attempting to obtain Vicodin Tuss, a schedule III controlled substance which contains hydrocodone. Respondent was allowed to plead guilty to the misdemeanor charge of engaging in deceptive business practices and received a suspended sentence. On November 22, 2000, Respondent also surrendered his DEA registration.[2]

According to the investigative file, at approximately 1 p.m. on February 8, 2007, Respondent contacted one of his patients and asked her to assist him in obtaining a narcotic controlled substance for his wife, who he claimed had torn her anterior cruciate ligament (ACL). Respondent asserted that other area physicians were out to get him and that he therefore needed to write the prescription in the patient's name. Several hours later, Respondent met with the patient at her place of employment (an Albertson's supermarket) and gave her a prescription for 90 pills of oxycodone 30 mg and $100 to pay for the prescription.

Later that evening, Respondent returned to the supermarket to obtain the prescription. The patient told

[1] The Return Receipt Card does not indicate the date of delivery. The card does, however, indicate that DEA received the card back on August 13, 2007.

[2] On May 22, 2004, Respondent applied for a new registration. On his application, Respondent disclosed the criminal proceeding, his prior drug abuse, and that he had surrendered his earlier registration. Respondent also stated that he had completed inpatient rehab and a four-year monitoring program. Upon determining that the State of Utah has issued Respondent both a medical license and a controlled substance license, Respondent was granted a new registration.

Respondent that she did not like the situation and was scared. Respondent told her that nothing would happen. The patient then gave the oxycodone and $94 to Respondent. The patient again told Respondent that she did not feel the situation was right; Respondent told her ''nothing happened.'' After a brief conversation, Respondent left.

Nine days later, another police officer received information regarding a July 2006 incident involving Respondent and another of his patients. According to the investigative file, Respondent had performed shoulder surgery on this patient and issued her a prescription for 60 pills of Percocet 10/650, a schedule II controlled substance which contains oxycodone. When the patient became ill taking the Percocet, she saw Respondent to get a prescription for a different drug.

During this visit, Respondent told the patient that the pharmacy had given her the wrong pills. Respondent took the Percocet from the patient and gave her a new prescription for a smaller dose.

Subsequently, the patient asked the pharmacy about the alleged error in the prescription. The pharmacy told her that the error was on Respondent's part. The pharmacy also told her that the Percocet should have been returned to the pharmacy and that the return should have been documented. The pharmacy, however, had no documentation of the Percocet having been returned.

Moreover, according to the investigative file, on two separate dates in December 2006, Respondent induced a physician's assistant (PA) student to fill prescriptions for 90 tablets of oxycodone (30 mg) and 120 tablets of oxycodone (30 mg). Respondent wrote the first prescription in his wife's name and represented to the student that his wife had dislocated her patella tendon. The student filled the prescription and gave it to Respondent.

The second incident occurred on the last day of the student's rotation. During a conversation in which Respondent and the student discussed the possibility of his employing her, Respondent wrote out a prescription and gave it to the student. Upon seeing the prescription, the student remarked ''Oxycodone?'' Respondent told the student to ''chill out'' because it was Percocet with Tylenol. The student then commented about the 30 mg strength of the pills; Respondent stated: ''you'd think if you double the strength you get double the effect, but that isn't the case at all.'' When the student also commented about the number of pills (120), Respondent stated that ''it would last him all year.'' The student proceeded to fill the prescription and provided the oxycodone to Respondent.

In late February 2007, Respondent approached another PA student stating that his wife had injured her ACL, and that he was trying to get her in to see a physician. Over the next several days, Respondent kept telling the student that his wife was in pain and that he was frustrated because he had forgotten to ask one of his colleagues to write a prescription. Respondent also stated that because of bad feelings, he did not believe that other physicians would write his wife a prescription for a pain medication. Respondent eventually induced the student to fill a prescription for 60 tablets of oxycodone (30 mg).

Local law enforcement subsequently interviewed a nurse who worked in the recovery room at a hospital where Respondent performed surgeries. In late July 2006, Respondent approached her, represented that he had severe knee pain, and asked her to fill a prescription for Percocet. The nurse agreed. Respondent wrote the prescription, which was for 90 tablets of Percocet (10 mg), in her name. The nurse filled the prescription and provided the drugs to Respondent.

Over the ensuing seven months, Respondent used additional scams to induce her to fill prescriptions for him such as stating that he had back pain, and that his wife had torn her ACL and that he could not find a doctor to perform surgery on her. On other occasions, Respondent told the nurse that he had wrecked his vehicle and could barely walk. He also told her that his wife's prescription had been stolen or lost down the drain.

Using this person, Respondent obtained a total of fifteen prescriptions for either Percocet (10 mg) or Oxycodone (30 mg).[3] The size of the prescriptions was either 90 or 120 tablets.

On March 14, 2007, Respondent was arrested. Thereafter, on May 9, 2007, the Carbon County Attorney filed six informations against Respondent. As relevant here, the County Attorney charged Respondent with numerous counts of distributing or arranging the distribution of a controlled substance, a felony offense under Utah law. *See* Utah Code Ann. § 58–37–8(1)(a)(ii). The state criminal proceedings remain pending as of the date of this Order.[4]

[3] In one instance, the strength of the Oxycodone was 15 mg.

[4] The investigative file also includes a copy of the report of a random drug test performed on Respondent on March 28, 2006. According to the report, Respondent tested positive for both hydrocodone and oxycodone; the levels of both drugs exceeded 5000 ng./ml. A document, which is dated March 30, 2007, and which is attached to the report states: ''excessively high quantitative random urine values do not reflect one time use, occasional use, or one time therapeutic use. Such values are consistent with long standing use and habituation.'' While the investigative file establishes that these documents were provided by a hospital where Respondent performed surgeries, the file does not establish the source of the statement. Accordingly, while I accept the results of the drug test, which showed that both hydrocodone and oxycodone were present in Respondent, I do not rely on the statement as to what the quantitative values establish.

Discussion

Section 303(f) of the Controlled Substances Act provides that ''[t]he Attorney General may deny an application for [a practitioner's] registration if he determines that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. § 823(f). In making the public interest determination, the Act requires the consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

''[T]hese factors are * * * considered in the disjunctive.'' *Robert A. Leslie M.D.*, 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked.'' *Id.* Moreover, I am ''not required to make findings as to all of the factors.''*Hoxie* v. *DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005).

Having considered the entire record and all of the factors, I conclude that Respondent's experience in dispensing controlled substances (factor two) and his record of non-compliance with applicable Federal law (factor four) demonstrate that granting Respondent's application for a new registration would be ''inconsistent with the public interest.'' 21 U.S.C. 823(f).[5] Accordingly, Respondent's application will be denied.

Respondent's experience in dispensing controlled substances is

[5] In light of my findings with respect to factors two and four, I conclude that it is unnecessary to make findings with respect to the remaining factors.

characterized by his criminal behavior in issuing numerous fraudulent prescriptions for such highly abused controlled substances as oxycodone and Percocet. While the record contains no information as to whether under Utah law and regulations, a physician can ever lawfully prescribe a controlled substance to a family member or himself, it is clear that Respondent issued numerous fraudulent prescriptions because the prescriptions were written in the names of persons who had no medical need for the controlled substance, and who were, after filling the prescription, to turn the drugs over to him.

Moreover, the stories that Respondent told to induce others to assist him were so implausible (*e.g.*, that no doctor would write a prescription for, or perform surgery on, his wife) or were consistent with classic scams engaged in by persons who seek controlled substances for illicit purposes (*e.g.*, that his wife's prescription had been stolen or lost down the drain), that it is clear that the prescriptions were written with fraudulent intent. *See Randi M. Germaine*, 72 FR 51665, 61666 (2007) (noting expert testimony regarding use of scams by drug abusers seeking additional drugs such as early refill attempts and claiming that one's drugs have been stolen).

This conduct violated Federal law. *See* 21 U.S.C. 843(a)(3) (rendering it ''unlawful for any person knowingly or intentionally * * * to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge''); *id.* § 844(a) (''It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter * * *.''). Indeed, it is particularly disturbing that Respondent was aided in his schemes by several health care professionals.

There is also substantial evidence that Respondent was personally abusing the drugs he obtained through his various schemes. The urinalysis results indicated that Respondent was using both hydrocodone and oxycodone. Moreover, when one of the PA students commented about his seeking oxycodone, Respondent told her to ''chill out,'' because it was Percocet with Tylenol. Moreover, when the student commented about the strength of the pills, Respondent stated that ''you'd think if you double the strength you get double effect, but that isn't the case,'' and also said that the 120 pills ''would last him all year.'' It is thus clear that Respondent was once again abusing controlled substances.

Respondent's experience in dispensing controlled substances and his record of non-compliance with Federal controlled substance laws is thus characterized by his issuance of numerous fraudulent prescriptions and his personal abuse of controlled substances. These findings amply demonstrate that Respondent cannot be entrusted with a new registration and that granting his application would be ''inconsistent with the public interest.'' 21 U.S.C. 823(f).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f), as well as 28 CFR 0.100(b) & 0.104, I order that the application of Randall Relyea, D.O., for a DEA Certificate of Registration as a practitioner be, and it hereby is, denied. This order is effective August 13, 2008.

Dated: June 27, 2008.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E8–15923 Filed 7–11–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Armando B. Figueroa, M.D.; Revocation of Registration

On November 14, 2007, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and Immediate Suspension of Registration to Armando B. Figueroa, M.D. (Respondent), of Washington, DC. The Order immediately suspended and proposed the revocation of Respondent's DEA Certificate of Registration, BF0128810, as a practitioner, on the grounds that his continued registration was ''inconsistent with the public interest'' and ''constitute[d] an imminent danger to public health and safety.'' Show Cause Order at 1 (citing 21 U.S.C. 823(f) & 824(a)(4)).

The Show Cause Order alleged that Respondent had ''repeatedly issued controlled substance prescriptions to [two individuals, S.S. and G.R.] for other than a legitimate medical purpose or while acting outside the usual course of professional practice in violation of 21 CFR 1306.04(a).'' Show Cause Order at 1. More specifically, the Show Cause Order alleged that on October 17, 2007, law enforcement authorities had searched a hotel room occupied by S.S. and found 500 dosage units of oxycodone, 630 dosage units of OxyContin, 400 dosage units of methadone, 180 dosage units of diazepam, and 30 dosage units of phentermine. *Id.* at 2. The Order also alleged that S.S. had in her possession eleven undated prescriptions for OxyContin and three prescriptions for methadone which Respondent had issued in the names of S.S. and G.R., two additional prescriptions for Oxycontin issued by Respondent on October 15, 2007 to S.S. and G.R., and ''$7,475.00 in cash.'' *Id.* Finally, the Order alleged that S.S. told law enforcement officers that she paid Respondent $100 for each prescription he issued and that Respondent had not physically examined her in years. *Id.*

Based on the above, I found that Respondent had ''repeatedly issued controlled substance prescriptions outside the usual course of professional practice, and for other than a legitimate medical purpose, [and was] thereby facilitating the diversion of controlled substances.'' *Id.* Accordingly, I further found that Respondent's ''continued registration during the pendency of these proceedings would constitute an imminent danger to public health and safety,'' and ordered the immediate suspension of his registration. *Id.* (citing 21 U.S.C. 824(d)).

On November 14, 2007, DEA Investigators served the Order to Show Cause and Immediate Suspension [1] by leaving it at Respondent's office and registered location. Later that same day, Respondent telephoned a DEA Investigator to complain about the suspension of his registration. Subsequently, DEA Investigators learned that on the days that Respondent worked at his Washington office, Respondent stayed at his daughter's house. Accordingly, on November 29, 2007, DEA Investigators also delivered a copy of the Order to Show Cause and Immediate Suspension to Respondent's daughter at her residence.

Since the service of the Order to Show Cause and Immediate Suspension, neither Respondent, nor any one purporting to represent him, has requested a hearing. Because (1) more than thirty days have passed since the Order was served, and (2) no request for a hearing has been received, I conclude that Respondent has waived his right to a hearing. *See* 21 CFR 1301.43(d). I

[1] The Order also fully explained that Respondent had a right to a hearing, the scheduled date of the hearing, the procedures for requesting a hearing, and that his failure to timely request a hearing would be deemed a waiver of his right. Show Cause Order at 2–3.